

Medicines and medical appliances are not taxed at the normal rate of 6.25%. These items are taxed at a lower State rate of 1% plus the applicable local tax rate. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

November 27, 2000

Dear Xxxxx:

This letter is in response to your letter dated October 17, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

We hereby request a technical advisement on the taxable status of our surgical products as described below.

We are a for profit STATE corporation that manufactures and sells through distributors and our internal sales force, **surgical equipment** and **supplies**. Our customers are primarily hospitals.

For purpose of definition:

Surgical Equipment: Durable medical instruments that are not implanted in the patient and are not consumed during the surgical procedure. This generally represents a capital investment by the hospital.

Surgical Supplies: Non-durable items that do not remain implanted in the patient and are consumed during the surgical procedure. These items carry the following labeling (See exhibit A):

'Caution: Federal (USA) law restricts this device to sale by or on the order of a physician.'

Please take care to address the following concerns:

Is either class of product taxable in Ohio?
Are there exceptions that must be considered?
To what extent is your reply binding?

Any additional information would be greatly appreciated.

All gross receipts from sales of tangible personal property in Illinois are subject to Retailers' Occupation Tax unless an exemption is specifically provided.

Medicines and medical appliances are not taxed at the normal rate of 6.25%. These items are taxed at a lower rate of 1%. See the enclosed copy of 86 Ill. Adm. Code 130.310. Items subject to this lower tax rate include prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing utensils, syringes, and needles used by diabetics, for human use.

A medicine or drug is defined as any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities.

A medical appliance is defined as an item that is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. See part (c) of Section 130.310. Medical devices that are used for diagnostic or treatment purposes do not qualify for the lower tax rate.

Surgical equipment that does not directly substitute for a malfunctioning part of the body is subject to the high rate of tax. Further, please note that supplies, such as non-sterile cotton swabs, disposable diapers, toilet paper, tissues and towelettes and cosmetics, such as lipsticks, perfume and hair tonics do not qualify for the reduced rate. However, sterile dressings, bandages and gauze do qualify for the reduced rate.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.